sections 216 and 234 of Public Law 104–106, the Fiscal Year 1996 defense authorization bill which the President signed into law on February 10, 1996. In particular, we called your attention to the Space and Missile Tracking System, the Theater High Altitude Area Defense (THAAD) program, and the Navy Upper Tier program. Therefore, we were dismayed by your February 16 press conference, in which you announced your intention to disregard key provisions of Public Law 104–106 by failing to provide funding sufficient to comply with this law.

With each passing day, new facts emerge which highlight the escalating proliferation threat. Your announcement of a decreased ballistic missile defense effort can only serve to strengthen the determination of nations with interests inimical to our own to continue to pursue these weapons of mass destruction and delivery systems which endanger American lives and interests. Conversely, eliminating our vulnerability in this area can only significantly reduce the incentive of rogue nations to pursue nuclear, chemical and biological weapons, as well as ballistic missile delivery systems.

The funding level you announced on the 16th of February is insufficient for the THAAD and Navy Upper Tier programs, respectively. We will authorize and appropriate funding in the Fiscal Year 1997 defense bills for these programs—which we believe complement, but cannot replace each other—at the levels necessary to achieve operational capability by the dates now specified in law. While we hope to accommodate as much of your FY '97 budget request as possible, please understand that we will not hesitate to alter the budget request as necessary to bring it into compliance with section 234 of Public Law 104–106.

Sincerely,

John Warner; Richard Shelby; Ted Stevens; Kay Bailey Hutchinson; Jesse Helms; Spencer Abraham; Conrad Burns; Rick Santorum; Bob Smith; Mike DeWine; Paul Coverdell; Connie Mack; Don Nickles.

Jon Kyl; Thad Cochran; Jim Inhofe; Larry E. Craig; Chuck Grassley; John McCain; Rod Grams; John Ashcroft; Mitch McConnell; Orrin Hatch; Al Simpson; Trent Lott.

EXHIBIT 1

[From the Washington Times, Mar. 15, 1996]

REPORT ON MISSILE THREAT TO U.S. TOO OPTIMISTIC, WOOLSEY CHARGES

(By Bill Gertz)

Former CIA Director R. James Woolsey told Congress yesterday that a recent intelligence estimate on the missile threat to the United States was flawed and should not be used as a basis for defense policies.

Appearing before the House National Security Committee, Mr. Woolsey challenged the conclusions of a recent national intelligence estimate (NIE) that said no long-range missiles will threaten the 48 contiguous United States for at least 15 years.

Limiting the estimate's focus on the missile threat to the 48 states ''can lead to a badly distorted and minimized perception of very serious threats we face from ballistic missiles now and in the very near future—threats to our friends, our allies, our overseas bases and military forces—and some of the 50 states,'' he said.

Broad conclusions drawn by policy-makers from the estimate could be ''quite wrong,'' he said, noting that North Korean intermediate-range missiles could threaten Alaska and Hawaii with ''nuclear blackmail'' in ''well under 15 years.''

To make policy judgments on missile defense needs from the limited analysis is ''akin to saying that, because we believe that for the next number of years local criminals will not be able to blow up police headquarters in the District of Columbia, there is no serious threat to the safety and security of our police,'' Mr. Woolsey said.

The estimate, based on public testimony and statements about it, also is flawed because it underestimates the danger of long-range missiles or technology being acquired internationally by rogue states, or the possibility that friendly states with missiles could turn hostile, he said.

A CIA spokesman could not be reached for comment.

Mr. Woolsey called for setting up a special team of outside experts to explore how to develop ballistic missiles. ''I would bet that we would be shocked at what they could show us about available capabilities in ballistic missiles,'' he said.

Rep. Floyd D. Spence, South Carolina Republican and committee chairman, said that to say the United States is secure from foreign missile threats over the next 15 years is ''dangerously irresponsible'' because of the global turmoil.

Mr. Spence has asked the General Accounting Office to investigate whether the 1995 NIE on the missile threat was ''politicized'' to fit Clinton administration opposition to missile defenses.

The first statements about the NIE were made public by Senate Democrats during debate on the fiscal 1996 defense authorization bill, which President Clinton vetoed in December because he opposed its provisions requiring deployment of a national missile defense.

Mr. Clinton said at the time of the veto that U.S. intelligence did not foresee a missile threat to the United States within the next decade.

Mr. Woolsey said that, if the president extrapolated a general conclusion from the very limited threat assessed by the NIE, ''I believe that this was a serious error.''

In separate testimony, Richard Perle, assistant defense secretary during the Reagan administration, criticized the Clinton administration's effort to expand the Anti-Ballistic Missile (ABM) Treaty to cover short-range anti-missile defenses.

''To diminish our capacity to deal with these threats in the mistaken belief that it is more important to preserve the ABM treaty unchanged is utter nonsense,'' Mr. Perle said. ''Those who urge this course are hopelessly mired in the tar pits of the Cold War.''

Mr. KYL. Mr. President, I have several unanimous consent requests on behalf of the majority leader. Mr. President, all of these requests have been cleared by the Democratic side.

MORNING BUSINESS

Mr. KYL. Mr. President, I ask unanimous consent there be a period for the transaction of morning business, with Senators permitted to speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 14, 1996, the Federal debt stood at $5,035,165,720,616.33.

On a per capita basis, every man, woman, and child in America owes $19,111.91 as his or her share of that debt.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 11:40 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

At 12:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROBERTS, Mr. EMERSON, Mr. GUNDERSON, Mr. EWING, Mr. BARRETT of Nebraska, Mr. ALLARD, Mr. BOEHNER, Mr. POMBO, Mr. DE LA GARZA, Mr. ROSE, Mr. STENHOLM, Mr. VOLKMER, Mr. JOHNSON of South Dakota, and Mr. CONDIT as the managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, insists upon its amendments, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HYDE, Mr. MCCOLLUM, Mr. SCHIFF, Mr. BUYER, Mr. BARR of Georgia, Mr. CONYERS, Mr. SCHUMER, and Mr. BERMAN as the managers of the conference on the part of the House.

MEASURES REFERRED

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Environment and Public Works:

S. 1412. A bill to designate a portion of the Red River in Louisiana as the ''J. Bennett Johnston Waterway,'' and for other purposes.

The Committee on Environment and Public Works was discharged from further consideration of the following

measure which was referred to the Committee on the Judiciary:

H.R. 419. An act for the relief of Benchmark Rail Group, Inc.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time by unanimous consent and placed on the calendar:

S. 1618. A bill to provide uniform standards for the award of punitive damages for volunteer services.

REPORT OF COMMITTEES

The following report of committee was submitted on March 14, 1996:

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 487: A bill to amend the Indian Gaming Regulatory Act, and for other purposes (Rept. No. 104–241).

The following reports of committees were submitted on March 15, 1996:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1467. A bill to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes (Rept. No. 104–242).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1619. A bill to amend the provisions of title 17, United States Code, to provide for an exemption of copyright infringement for the performance of nondramatic musical works in small commercial establishments, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mrs. BOXER):

S. 1620. A bill to amend the Water Resources Development Act of 1986 to provide for the construction, operation, and maintenance of dredged material disposal facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG:

S. 1621. A bill to amend the Silvio O. Conte Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 1622. A bill to amend the independent counsel statute to permit appointees of an independent counsel to receive travel reimbursements for successive 6-month peroids after 1 year of service; to the Committee on the Judiciary.

By Mr. WARNER:

S. 1623. A bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1619. A bill to amend the provisions of title 17, United States Code, to provide for an exemption of copyright infringement for the performance of nondramatic musical works in small commercial establishments, and for other purposes; to the Committee on the Judiciary.

THE MUSIC LICENSING REFORM ACT OF 1996

Mr. HATCH. Mr. President, today I am introducing the Music Licensing Reform Act of 1996: First, to clarify the ''home-style'' exemption provided by the Copyright Act for the public performance of nondramatic musical works; second, to regularize the commercial relations between the performing rights societies, which license such public performances, and their licensees, who are the proprietors of eating, drinking, and retail establishments, and third, to improve in general the oversight of the licensing practices of the two largest performing rights societies, the Association of Songwriters, Composers, Authors, and Publishers [ASCAP] and Broadcast Music, Inc. [BMI].

Music licensing has been a matter of discussion for many years. There are strongly held views among all of those involved. I am committed to trying to resolve this matter, and this bill is a good-faith effort to do so. It is my hope that it can serve as a basis for further discussion.

Commercial establishments, such as restaurants, bars, and retail stores, make money off of the public performance of musical works, whether it be from live performances, from sound recordings, or from radio and television. Commercial establishments play music or turn on radio and TV in order to make the eating, drinking, or shopping experience more pleasant. The ubiquity of these kinds of entertainment itself proves that businesses believe that it increases patronage.

Recognizing that commercial establishments make money off of the creative output of songwriters, the Copyright Act of 1976 provided songwriters with the exclusive right of public performance, so that creators might share in the added value that their product creates. In doing so, the Copyright Act carries out the philosophy of the copyright clause of the Constitution, which sees economic reward as an important incentive to artistic creation.

Mr. President, the Constitution was right. In 1993, the core copyright industries contributed approximately $238.6 billion to the U.S. economy, or 3.74 percent of the total GDP. These same core copyright industries contribute more to the U.S. economy and employ more people than any single manufacturing sector, and the growth rate of these industries continues to outpace the growth of the economy as a whole by a 2-to-1 ratio.

With domestic sales topping $10 billion each year and annual foreign sales totaling over $12 billion, the music industry by itself accounts for a huge percentage of the American economy, and its popularity abroad provides a healthy component of the U.S. balance of trade. It is really not an exaggeration to say that American music dominates the globe. In fact, it is estimated that U.S. recorded music accounts for some 60 percent of the world market. Indeed, the United States is second to none in musical creativity. The prosperity of the music industry and the creative output of American composers and songwriters must be encouraged.

At the same time, Mr. President, the Copyright Act recognizes that obtaining and paying for a license to play music should not be overly burdensome. Some of the burden of obtaining such a license is lessened by the performing rights societies, such as ASCAP, BMI, and SESAC. It would be intolerable for a restaurant, bar or store to monitor all the music that it performs and then search out the individual songwriter, composer, or publisher who owns the copyright in the music. Instead, a proprietor can go to the performing rights societies and purchase a blanket license and not worry about what music it plays, since ASCAP, BMI, and SESAC account for virtually all of the music that is normally played in the United States.

EXEMPTION FOR SMALSL COMMERCIAL ESTABLISHMENTS

The average cost to restaurants and retail establishments of a blanket license from ASCAP for all public performances, whether by radio and TV or live, is $575 per year. BMI charges on the average less than $300 per year for eating and drinking establishments for public performance by radio and TV, and its retail establishment license for these performances ranges from $60 to $480 per year. These are not large sums of money, but they still could be burdensome for some small commercial establishments. So the Copyright Act also provides for an exemption, freeing some proprietors from any obligation to compensate songwriters for the use of their music. This exemption is found in section 110(5) of the Copyright Act and it effectively applies to establishments that turn on radio and TV for their customers' enjoyment. It is known as the ''homestyle'' exemption, because it exempts ''the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes.'' Congress felt—and rightly so—that small commercial establishments that turned on ordinary radio and TV sets would have a de minimis impact on the incentive to create that music licensing fees encourage.

Unfortunately, a certain ambiguity was introduced into the exemption by the language of the House and conference reports of the Copyright Act of 1976, and this ambiguity has been exacerbated by the courts. Although the language of 110(5) only mentions sophistication of equipment, the courts